

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 514I.5 and 2009 Iowa Acts, House File 811, section 6(7), the Department of Human Services amends Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

This amendment implements a one-month delay in benefits when health insurance has ended during the month of application for HAWK-I or Medicaid benefits or during the five preceding months for a child whose family’s countable income equals or exceeds 200 percent of the federal poverty level. The amendment specifies conditions when the delay does not apply, including situations when the reason the insurance ended was out of the family’s control.

The intent of this provision is to provide a disincentive for families who drop health insurance coverage for their children and then apply for aid. The federal Centers for Medicare and Medicaid Services has informed the Department that a strategy to avoid this phenomenon (called “crowd out”) must be implemented as a condition of approval for the HAWK-I State Plan amendment to expand income eligibility to families whose countable limit is up to 300 percent of the federal poverty level. Because the amendments to implement this expansion have already been Adopted and Filed (published in the Iowa Administrative Bulletin on May 20, 2009, as **ARC 7770B**), it is imperative that the Department meet the requirements for obtaining federal matching funds for these expenditures.

This amendment provides for waiver of the waiting period in several specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The HAWK-I Board adopted this amendment on August 17, 2009.

The Department finds that notice and public participation are impracticable and contrary to the public interest because this amendment is necessary to secure federal funding for HAWK-I expansion provisions that have already been adopted. The Department also will not be able to claim federal funds for the first month of coverage for any family who would have had a waiting period imposed if this rule had been in place on July 1, 2009. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department also finds that this amendment confers a benefit on the state as a whole by enabling federal financial participation in the expansion of HAWK-I coverage previously adopted. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of the amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 8128B** to allow for public comment.

This amendment is intended to implement Iowa Code chapter 514I.

This amendment became effective on September 1, 2009.

The following amendment is adopted.

Adopt the following **new** paragraph **86.2(4)“b”**:

*b.* Waiting period. For any child whose family income is subject to a monthly premium pursuant to paragraph 86.8(2) “c,” the department shall determine whether health insurance coverage for the child ended during the month when an application is filed pursuant to subrule 86.3(4) or within the five months preceding the month of application. If so, a waiting period of one month shall be imposed. The effective date of coverage shall be one month later than the date specified in rule 441—86.5(514I). EXCEPTIONS: A waiting period shall not be imposed if any of the following conditions apply:

- (1) The child is moving from Medicaid to HAWK-I.
- (2) The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death.
- (3) The cost of health insurance coverage for the child exceeds 5 percent of the family’s gross income. The cost of health insurance for the child shall be the difference between the premium for coverage with and without the child.

- (4) The health insurance was provided through an individual plan.
- (5) The child's health insurance coverage was lost due to:
  - 1. Domestic violence.
  - 2. Divorce or death of a parent.
  - 3. An involuntary loss of employment that qualified the parent for dependent coverage, including but not limited to layoff, business closure, reduction in hours, or termination.
  - 4. A job change to a new employer that does not offer dependent coverage or that requires a waiting period before children can be enrolled in dependent coverage.
  - 5. Utilization of the maximum lifetime coverage amount.
  - 6. Expiration of coverage under COBRA.
  - 7. Discontinuation of dependent coverage by the parent's employer.
  - 8. A reason beyond the control of the parent, such as a serious illness of the parent, fire, flood, or natural disaster.

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